
DATED OF 2021

TRANSFORMING HOMES CONTRACT
(SOUTH EAST CONSORTIUM FRAMEWORK)

BETWEEN

THURROCK BOROUGH COUNCIL

AND

WATES CONSTRUCTIONS LIMITED

PS/2020/SEC
TC-025285

ARTICLES OF AGREEMENT

This **Agreement** is made by **DEED** this

day of June, 2021

BETWEEN:

1. **THURROCK BOROUGH COUNCIL** of Civic Offices, New Road, Grays. Essex. RM17 6SL (hereinafter called "the Council")

and
2. **WATES CONSTRUCTION LIMITED** a company registered in England with registration number and whose registered office is at Wates House, Station Approach, Leatherhead, Surrey, KT22 7SW (hereinafter called "the Contractor")

WHEREAS (Recitals)

- FIRST:** The Council requires certain works and associated services to be carried out to residential dwellings contained in the Council's owned / managed properties within Thurrock ("the Contract Area") in accordance with the details set out or referred to in the Contract Particulars;
- SECOND:** The Council invited the Contractor to take part in a mini competition under the South East Consortium Framework – OJEU Ref 2019/S 078-184728 Lot1B- Major Refurbishment over £1 m (the "Framework Agreement") and following a tender exercise and evaluation process has selected the Contractor to carry out the required works. The Contractor agrees hereby to carry out the required works at specified rates or as otherwise determined in accordance with the Conditions herein.
- THIRD:** The Council has appointed a Contract Administrator to issue Orders for the required works and carry out the functions ascribed to the Contract Administrator by the Conditions.
- FOURTH:** The Contractor has supplied to the Council the Contractor's safety policy complying with Statutory Requirements, a copy of which is annexed
- SIXTH:** The format of the Contract shall be the basic JCT Measured Term Contract (2016 Edition) as amended herein and shall be made of and comprise:
1. These Articles of Agreement
 2. The Articles
 3. The Contract Particulars
 4. Conditions of Contract
 5. Schedules
 - Schedule 1: Specifications
 - Schedule 2: Clarifications
 - Schedule 3: Tender Response
 - Schedule 4: Schedule of Rates
 - Schedule 5: Asset Register
 - Schedule 6: Supplementary Information

NOW THE PARTIES HEREBY AGREE:

FOR THE AVOIDANCE OF DOUBT any conflict or ambiguity between the JCT Measured Term Contract (2016 Edition) and the amendments herein shall be construed in favour of these amendments

ARTICLES

Article 1 Contractor's obligations

The Contractor shall carry out all Orders that are placed with him during the Contract Period in accordance with the Contract Documents using best endeavours and with all reasonable care and skill.

Article 2 Payment

The Council shall pay the Contractor at the times and in the manner specified in the Conditions amounts calculated by reference to the Schedule of Rates identified in the Contract Particulars (item 12), adjusted and, if appropriate, revised as therein mentioned, or (where applicable and appropriate) calculated by reference to a Schedule of Hourly Charges (subject to items 13 and 14).

Article 3 Contract Administrator

For the purposes of this Contract the Contract Administrator is:

Potter Raper Ltd

or

If s/he ceases to be the Contract Administrator, such other person as the Council shall nominate.

Article 4 Principal Designer

The Principal Designer for the purposes of the CDM Regulations is the Contract Administrator.

Or such other person as the Council at any time appoints to fulfil that role either in relation to all Orders or for specific Orders.

Article 5 Principal Contractor is Wates Construction Ltd

Article 6 Adjudication As Article 7

Article 7 Arbitration In relation to Article 6 and Article 7 Any dispute or difference arising under this Contract shall be determined in accordance with Section 9 as amended herein.

Article 8 Legal proceedings

Notwithstanding anything to the contrary herein the English courts shall have jurisdiction over any dispute or difference between the Parties which arises out of or in connection with this Contract.

CONTRACT PARTICULARS

CLAUSE	SUBJECT	
1.1	Properties and description of the types of work	Internal and external refurbishment work to various properties owned or managed by Thurrock Borough Council.
1.2	Description of the types of work for which Orders may be issued	Refurbishment of internal and external elements including but not limited to: kitchen, bathroom, central heating, window, roof, EWI and door replacements.
2. Sixth Recital and Schedule Supplemental Provisions	<p>Supplemental Provisions</p> <p>(Where neither entry against an item below is deleted, the relevant paragraph applies.)</p> <p>Collaborative working</p> <p>Health and safety</p> <p>Cost savings and value improvements</p> <p>Sustainable development and Environmental considerations</p> <p>Performance Indicators and monitoring</p> <p>Notification and negotiation of disputes</p> <p>If Paragraph 6 applies</p>	<p>The Supplemental Provisions apply as set out below subject and in addition to any amendments herein</p> <p>Paragraph 1 *applies</p> <p>Paragraph 2 *applies</p> <p>Paragraph 3 *applies</p> <p>Paragraph 4 * applies</p> <p>Paragraph 5 *applies</p> <p>Paragraph 6 *applies</p> <p>Councils Nominee: Name: Redacted E-mail: Redacted</p> <p>Contractor's Nominee: Name: To be confirmed E-mail: To be confirmed</p>
3	Contract Period (Article 1 and Clause 7.1) (as amended)	Subject to clause 7.1 herein, it is intended that the Contract Period will be a minimum of 3 years

		commencing on 1st July 2021. At the clients' sole discretion, the contract can be extended by a maximum of 2 years in yearly increments.
4	Adjudication (Article 6) and Arbitration (Article 7) (as amended)	Articles 6 and 7 and any corresponding clauses are deleted and replaced with Section 9 herein
5	BIM Protocol (Clause 1.1) where applicable	BIM Protocol 7 does not apply
6	Orders – Minimum and Maximum value (Clause 2.4)	The Council give no guarantee as to the size or frequency of any orders if at all. No claim for variations in prices, or loss of profit shall be accepted regardless of the size or nature of works awarded.
7	Orders –Value of work to be carried out (Clause 2.5)	The Council give no guarantee as to the value of any orders to be placed, if at all. SAVE that any orders placed will be remunerated in accordance with the payment provisions herein.
8	Orders - Priority Coding (Clause 2.6)	All Orders to be completed in the timeframes stipulated in the Key Performance Indicators included within Appendix to Schedule 6 . Failure to comply with the stipulated timeframes will result in an Action and Improvement Plan being implemented and possible break provision under clause 7.1.
9	Construction Industry Scheme (CIS) (Clause 4.2)	The Council at the commencement of the Contract Period is a 'contractor' for the purposes of the CIS.
10	Payments (Clauses 4.3, 4.4 and 4.5)	The first due date is 30 days from possession, and thereafter the same date in each month, or the nearest Business Day thereafter.
11	Responsibility for measurement and valuation (Clause 5.2)	The Contract Administrator shall measure and value all orders.
12	Schedule of Rates (clause 5.3, 5.6.1 and 5.6.2)	<p>12.1: The Schedule of Rates to be used is the Bespoke composite schedules of rates included within Section 7 and the backup rates shall be the National Housing Federation (NHF) Schedule of Rates, Version 6.1 enclosed within Section 8 and the Contractor's percentage adjustment at Tender Stage. (In all cases the composite rates shall take precedent).</p> <p>12.2: to be deleted</p> <p>12.3: does apply; 1 year from the contract date.</p>

		12.4: in accordance with the BMI Index each year after the contract commencement date (See schedule 1)
13	Day work (Clauses 5.4, 5.6.3 and 5.6.4)	13.1: does not apply. 13.2: in accordance with the BMI Index each year after the contract commencement date (See schedule 1)
14	Overtime work (Clause 5.7)	Not applicable
15		
16	Break Provisions – Council or Contractor (Clause 7. 1)	Is deleted and replaced with 7.1 herein
17	Settlement of Disputes (Clauses 9.2, 9.3 and 9.4.1)	Is deleted and replaced with new section 9 herein

Thurrock Council
Released under FOI

IN WITNESS whereof the parties hereto have caused their respective Common Seals to be hereunto affixed the day and year first above written.

EXECUTED AND DELIVERED as a)
DEED on behalf of **THURROCK**)
BOROUGH COUNCIL by affixing its)
Common Seal in the presence of:)
.....)
Authorised Signatory)

.....
Name of Authorised Signatory

.....
Position

EXECUTED AND DELIVERED as a)
DEED by **WATES CONSTRUCTION**)
LTD and signed by (either) two directors)
(**or**) one director and the Company)
Secretary (**or**) (in the case of a single)
Director company) the Director in the)
presence of a witness:)

.....
Director Signature

.....
Name of Director

.....
Witness Sign

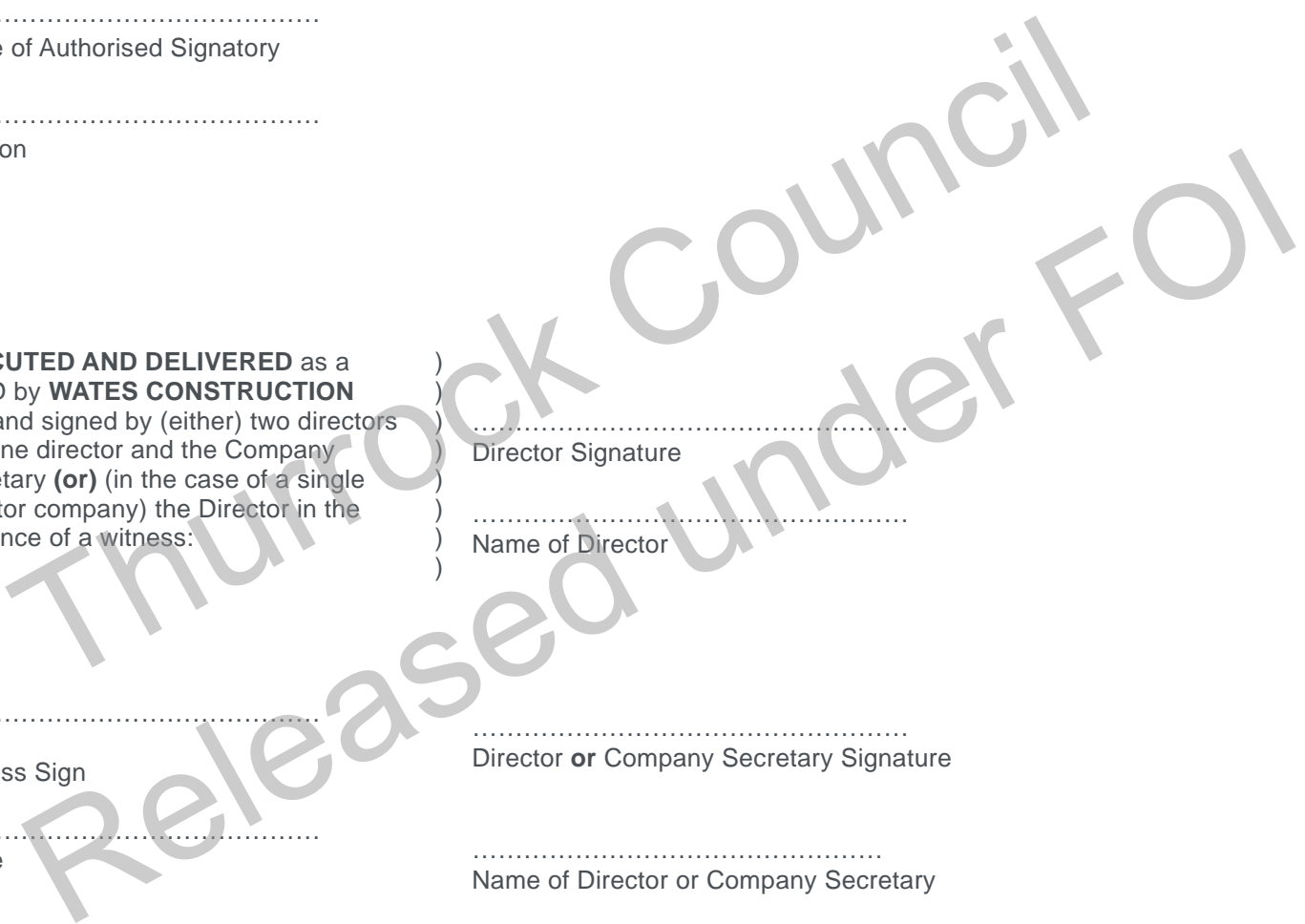
.....
Director **or** Company Secretary Signature

.....
Name

.....
Name of Director or Company Secretary

.....
Position

.....
Address



SCHEDULE 2

CONTRACT CONDITIONS

1.1 AMENDMENTS AND ADDITIONS TO THE JCT MEASURED TERM (2016) CONDITIONS OF CONTRACT

The following Conditions amend the Standard Form of Measured Term Contract 2016 issued by the Joint Contracts Tribunal (hereinafter referred to as the JCT Measured Term Contract)

SECTION 1:	DEFINITIONS AND INTERPRETATION	
Add / Delete / Amend Existing	Insert Clause No	Insert (Heading and Clause) In addition to the Definitions and Interpretations found in the JCT Measured Term Contract 2016 the following terms and conditions (where used) shall have the meaning ascribed below.
Definitions to be added:	1.1	<p>Amendment Notwithstanding any other Condition, no deletions from or additions to or change in any of the Contract Documents shall be valid or of any effect unless agreed in writing and signed by a duly authorised representative of each party and expressed to be for the purpose of such amendment.</p> <p>Authorised Officer Means a senior officer of the Council authorised to instruct the Contract Administrator in respect of the Council requirements</p> <p>Confidentiality All information provided to the Contractor or obtained by the Contractor in connection with this Contract is confidential. The Contractor may not make any press announcements or publicise this Contract in any way without the prior written consent of the Council.</p> <p>Contract Administrator The person appointed by the Council to administer day to day management of the Contract on behalf of the Council as notified to the Contractor.</p> <p>Contract Variation No variation or modification to the Contract is valid unless it is in writing and signed by the Council and the Contractor.</p> <p>Without prejudice to the above, the Council shall be entitled to issue to the Contractor in writing or, in case of urgency orally (provided the Council confirms oral instructions in writing as soon as it is practicable), variation orders requiring the addition, suspension, reduction or cessation of provision of any Services and/or the provision of emergency Services in accordance with revised Delivery Instructions or</p>

SECTION 1:		DEFINITIONS AND INTERPRETATION
Add / Delete / Amend Existing	Insert Clause No	Insert (Heading and Clause) In addition to the Definitions and Interpretations found in the JCT Measured Term Contract 2016 the following terms and conditions (where used) shall have the meaning ascribed below.
		Specification. The Contractor shall revise the Price in the Tender for the impact of the variation order in accordance with the rates and prices used to calculate the Price in the Tender.
		Copyright Copyright in Contract Documents shall rest in the Council and the Contract Documents and all copies thereof are and shall remain the property of the Council and must be returned to the Council on demand. The Contract Documents may not be copied without the written consent of the Contract Administrator.
		The Council Shall be Thurrock Borough Council which is also the "Employer" for the purposes of the JCT Measured Term Contract 2016 (as amended) and the expressions "the Council" and "the Employer" are synonymous and interchangeable.
		General Data Protection Regulations/Data Protection Act Means the GDPR regulations and any amendments thereto. The Contractor hereby undertakes that it will comply with its obligations as data processor under the GDPR regulations as and when the same are applicable to this Contract and that it will comply with the additional obligations of confidentiality applying to any personal data processed by the Contractor under this Contract. The Contractor will indemnify the Council and keep the Council indemnified against any damages, losses, liabilities, claims, actions, costs, deductions and expenses arising as a result of any breach by the Contractor, its employees, sub-contractors or agents, of its obligations under this clause. Without prejudice to the generality of this clause where the Council is data controller for any personal data processed by the Contractor as part of the Service the Contractor as data processor shall: act only on instruction from the Council as data controller, and take appropriate technical, operational and security measures against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data.
		Default Notice Means a written notice issued by the Contract Administrator as a result of the failure of the Contractor to comply with the Contract Administrator's written instructions or failure to commence or complete or carry out an Order or any part thereof in accordance with the terms and conditions of the Contract.
		"Defects" means a defect, breakdown, malfunction or failure in any goods, equipment, consumables, products or other items which may be delivered as part of or as a result of the Services under the Contract (and failure shall include failure to comply with the performance requirements in the Contract

SECTION 1:		DEFINITIONS AND INTERPRETATION
Add / Delete / Amend Existing	Insert Clause No	<p>Insert (Heading and Clause) In addition to the Definitions and Interpretations found in the JCT Measured Term Contract 2016 the following terms and conditions (where used) shall have the meaning ascribed below.</p>
		<p>Documents Mutually Explanatory</p> <p>Except as otherwise expressly provided, the Contract Documents are to be read as a whole and to be taken as mutually explanatory of one another and if the Contractor shall find and notify to the Contract Administrator any ambiguity or discrepancy, or if it shall appear to the Contract Administrator that there is any ambiguity or discrepancy in or between any of the said documents, the same shall be explained and adjusted by the Contract Administrator who shall thereupon send to the Contractor appropriate instructions in writing and the Contractor shall carry out and be bound by such instructions.</p> <p>Where there is any inconsistency between these Conditions and any other Contract Document, these Conditions shall prevail.</p>
		<p>Force Majeure</p> <p>any cause materially affecting the performance by a party of its obligations under this Contract arising from any act beyond its reasonable control and affecting either party, including without limitation: acts of God, war, industrial action (subject to clause H6.3), protests, fire, flood, storm, tempest, epidemic, pandemic, explosion, acts of terrorism and national emergencies.</p>
		<p>FOIA Means the Freedom of Information Act 2000</p> <p>The Contractor accepts that the Council is obliged to comply with the Freedom of Information Act 2000 and the Code of Practice on the Act (collectively "the Act and Code"), and will assist the Council to comply with its obligations under the Act and Code. This includes helping the Council comply with its obligation to respond to a request for information ("Information Request") within 20 days of receipt; and providing information to the Council where the Council requests.</p> <p>The Council is entitled to disclose information unless it believes that the information is Exempt under the Act. Exemption may apply where, for example, information is provided in confidence; where the information is a trade secret; or where release is likely to prejudice commercial interests. The Council will decide, acting reasonably, whether information requested under the Act is to be disclosed or not. The Council will where reasonably practicable consult the Contractor and will consider any representations made by the Contractor. The Council shall not be liable for any loss or other detriment caused by the disclosure of any information</p>
		<p>Good Industry Practice</p> <p>the exercise of such degree of skill, diligence, care and foresight which would reasonably and ordinarily be expected from a skilled and experienced contractor engaged in the works and supply of services similar to the Services under the same or similar circumstances as those applicable to the Contract</p>
		<p>Normal Working Days</p> <p>Means Monday to Friday inclusive excluding Public Holidays.</p>
		<p>Normal Working Hours</p> <p>Means at any times between 0800 hours and 1800 hours on Normal Working Days.</p>

SECTION 1:		DEFINITIONS AND INTERPRETATION
Add / Delete / Amend Existing	Insert Clause No	<p>Insert (Heading and Clause) In addition to the Definitions and Interpretations found in the JCT Measured Term Contract 2016 the following terms and conditions (where used) shall have the meaning ascribed below.</p>
		<p>Severance</p> <p>If any provision of the Contract shall become or shall be declared by any court of competent jurisdiction to be invalid or unenforceable in any way, such invalidity or unenforceability shall in no way impair or affect any of its other provisions all of which shall remain in full force and effect.</p>
		<p>Sufficiency of Information</p> <p>The Contractor shall be deemed to have satisfied himself before submitting his tender as to the accuracy and sufficiency of the rates and percentages stated by them in their tender and shall (except insofar as otherwise provided in the Contract) be deemed to have therein covered all their obligations under the Contract and shall be deemed to have obtained for themselves all necessary information as to the risks, contingencies and other circumstances which might reasonably influence or affect their tender.</p> <p>The Contractor warrants all representation whether written or oral made to the Council by the Contractor which would or might affect the Councils decision to enter into the contract to be correct.</p>
		<p>Transparency</p> <p>The Parties acknowledge that, except for any information which is exempt from disclosure in accordance with the provisions of the Freedom of Information Act 2000 ('FOIA'), the content of this Contract is not confidential. The Council shall be responsible for determining in its absolute discretion whether any of the content of this Contract is exempt from disclosure in accordance with the provisions of FOIA.</p> <p>Notwithstanding any other term of this Contract:</p> <p>The Contractor hereby consents to the Council publishing any amendments to the standard form JCT contract in their entirety, including changes to the standard form agreed from time to time, but in each case with any information which is exempt from disclosure in accordance with the provisions of FOIA redacted;</p> <p>The Council shall promptly inform the Contractor of any request for disclosure that he receives in relation to this Contract.'</p>
		<p>Waiver</p> <p>Failure by the Council at any time to enforce the provisions of the Contract or to require performance by the Contractor of any of the provisions of the Contract shall not be construed as a waiver of any such provision and shall not affect the validity of the Contract or any part thereof or the right of the Council to enforce any provision in accordance with the Contract.</p>
Delete 1.2 Agreement etc. to be read as a whole		

SECTION 2:		CARRYING OUT WORK
ADD / Delete / Amend Existing	Insert / Replace Clause No	Insert (Heading and Clause)
Renumber Clause 2.1 Contractor's Obligations	Renumber	Renumber 2.1 as 2.1.1
	Add new 2.1.2	For the avoidance of doubt the Council shall not (when serving a Default Notice) be obliged to give the Contractor an additional period of time to commence or complete an Order
Delete 2.3.1.1 Rights of Employer	Add New 2.3.1.1	Irrespective of the Contractor's performance – to place orders for similar work or services with other contractors or his own labour within the Contract Area.
Renumber 2.7 Programme	Amend 2.7.1 (old 2.7)	Where the Contract Administrator requests, the Contractor, without charge to the Council, shall provide the Contract Administrator with a programme for carrying out the orders identified by the Contract Administrator in his request and, within a reasonable time after the issue of a Variation, with amendments and revisions to that programme to take account of the Variation. Nothing in the programme or in any amendment or revision of it shall impose any obligation beyond those imposed by the Contract Documents.
	Add New 2.7.2	In addition the Contractor shall on request and without charge provide such further information regarding the carrying out of each Order as may be required by the Contract Documents or the Order.
Delete 2.12	Add new 2.12	Defects Any defects, faults or shrinkages which appear within 12 months of the Order Completion Date and are due to materials or workmanship not in accordance with this Contract, shall be made good by the Contractor at no cost to the Council.
SECTION 3:		CONTROL OF WORK
Add / Delete / Amend Existing	Insert / Replace Clause No	Insert (Heading and Clause)
Delete 3.1 Assignment	Add new 3.1.1	Assignment Subject to any express provision of this Contract, the Contractor shall not without the prior written consent of the Council, assign all or any benefit, right or interest under this Contract or sub-contract the provision of the Services.
	Add new 3.1.2	The Council shall be entitled to: assign, novate or dispose of its rights and obligations under this Contract either in whole or part to any contracting authority (as defined in The Public Contracts Regulations 2006); or transfer, assign or novate its rights and obligations where required by Law.
Delete 3.2 Sub Contracting	Add New 3.2.1.1	Sub Contracting The Contractor shall not sub-contract any Order or any part thereof to any person without the previous written consent of the Council, which consent shall not be unreasonably withheld or delayed.

SECTION 3:		CONTROL OF WORK
Add / Delete / Amend Existing	Insert / Replace Clause No	Insert (Heading and Clause)
	Add New 3.2.1.2	Where written consent has not been obtained in accordance with clause 3.2.1.1, the Order may be inspected by the Contract Administrator and the amount of any costs incurred by the Council in carrying out the inspection may be set off against and deducted by the Council from any monies due or to become due to the Contractor under the Contract or shall be recoverable from the Contractor by the Council as a debt. The rights of the Council under this sub-clause shall be without prejudice to any other rights or remedies which he may possess.
	Add New 3.2.1.3	Where written consent has been provided in accordance with clause 3.2.1.1, no further sub-contracting will be approved. If the Contractor fails to prevent further sub-contracting, the Council will be entitled to cancel the Order and pay other persons to carry out the work ordered or any part thereof and the amount of any costs, loss or expense incurred by the Council by reason thereof may be set off against and deducted by the Council from any monies due or to become due to the Contractor under the Contract or shall be recoverable from the Contractor by the Council as a debt. The rights of the Council under this sub-clause shall be without prejudice to any other rights or remedies which he may possess.
	Add New 3.2.1.4	No sub-contracting on the part of the Contractor shall operate to relieve the Contractor from any liability or obligation to the Council under the Contract and the Contractor shall be responsible to the Council for and shall indemnify the Council in respect of acts, defaults or neglect of any sub-contractor or his agents or employees in all respects as if they were the acts, defaults or neglect of the Contractor or (the word "employee" hereinafter in this sub-clause means a person directly employed under a contract of service) any employee of the Contractor
	Add New 3.2.2	Without prejudice to anything contained in clause 3.2.1, the Contractor shall immediately upon receipt pass on to any sub-contractor and require such sub-contractor forthwith to comply with all instructions of the Contract Administrator which might affect the sub-contractor's work under the sub-contract and the Contract Administrator shall be at liberty to issue directly to any sub-contractor any instruction which he considers desirable in the interests of the health and safety of any person and/or to avoid damage to any property.
	Add New 3.2.3	Without prejudice to anything contained in clause 3.2.1 or 3.2.2, any sub-contract shall provide that the Contract Administrator shall have the same rights and remedies in respect of access to any Site or the work being carried out on there and to inspect any material intended to be or being used for the carrying out of any Order as he would have under this Contract were the Order being carried out directly by the Contractor.
Delete Clause 3.4 Access to the Site	Add New 3.4.1	Access to the Site Subject to such instructions if any as the Contract Administrator may issue, access to Sites shall be arranged by the Contractor.
	Add New 3.4.2	The Contractor shall comply with the provisions on access to the sites stated in the Specification.
	Add New 3.4.3	Where the Contractor is unable to gain access to a site, he shall comply with the provisions stated in the Specification
Delete existing 3.6.2.2 Cancellation of an Order	Add New 3.6.2.2	Cancellation of an Order The Council will reimburse the Contractor such additional direct costs as may reasonably have been incurred by the Contractor as a result save that no payment will be considered in the event of a cancellation resulting from the default of the Contractor.

SECTION 4:		PAYMENT
Delete/Amend Existing	Insert ./ Replace Clause No	Insert (Heading and Clause)
Amend Progress Payments	Add New 4.3.4	Progress Payments Applications for a progress payment will not be considered for individual dwellings or elements of the Order that have not achieved completion
Amend Final Payment where Contractor Measures and Values Orders	Add New 4.5.6	Final Payment where Contractor Measures and Values Orders If an account submitted by the Contractor in accordance with clause 4.5.1 or 4.5.3 is found by the Contract Administrator, whether or not it has been certified, to contain errors in the Contractor's favour in excess of the amount that should properly have been included in the account so submitted, then the account shall be amended and the Council:
	Add New 4.5.6.1	shall only be required to pay such corrected account or, if the uncorrected account has been certified and paid, shall be entitled, subject to clause 4.6.5 to recover the excess by withholding and/or deduction from any amount due or to become due to the Contractor or that excess may be recovered from the Contractor as a debt; and
	Add New 4.5.6.2	may, subject to clause 4.6.5 withhold and/or deduct from any amount due or to become due to the Contractor under the Contract or recover from the Contractor as a debt all costs reasonably incurred by the Council in finding the error.
	Add New 4.5.7	Without prejudice to Clause 4.5 the Contract Administrator will only be required to include in his Certificate works commenced and completed in accordance with the Contract Documents
	Add New 4.5.8	It shall be a condition precedent to any payment made by the Council under clause 4.5 that the Contractor shall have handed over to the Council (to the Contract Administrator's satisfaction) all documentation and other items as the Contractor is required to provide, including but not limited to: <ul style="list-style-type: none"> • Guarantees and warranties • Maintenance manuals • Information under CDM Regulations • All information relating to the completed Order
Amend Payments – final date and amount	Replace 4.6.1	Payment of Certificates Subject to 4.6.4, the final date for payment of each payment under clauses 4.3 to 4.5 shall be 30 days from its due date.
Delete clause 4.7 Contractor's Right of Suspension	Add New 4.7	Contractor's Right of Suspension The Contractor is not entitled to suspend provision of the Services as a result of any overdue sums

SECTION 5:		MEASUREMENT AND VALUATION
Delete/Amend Existing	Insert ./ Replace Clause No	Insert (Heading and Clause)
Amend 5.4 Valuation Daywork	Add New 5.4.3	Valuation Daywork Day work rates shall be payable only in respect of time spent on Site in carrying out the work. They will not be payable in respect of incidental travelling and transport to and from Site for any reason whatsoever.

SECTION 5:		MEASUREMENT AND VALUATION
Delete/Amend Existing	Insert / Replace Clause No	Insert (Heading and Clause)
	Add New 5.4.4	The Contractor shall give the Contract Administrator all information necessary to enable him properly and fully to supervise any work which is to be valued on a day work basis.
Delete clause 5.7 Overtime Work		
Delete clause 5.8 Interruption of Work – Unproductive Costs		
Add clause 5.9 and heading “ Retention ”		“The Employer will be entitled to withhold retention from all sums due to the Contractor. The Retention Percentage will be 2.0% and subject to the making good of all defects to the satisfaction of the Contract Administrator the amount so retained will be certified by the Contract Administrator twelve calendar months after the completion of the Order and discharged by the Employer to the Contractor”.
SECTION 6:		INJURY, DAMAGE AND INSURANCE
Delete/Amend Existing	Insert / Replace Clause No	Insert (Heading and Clause)
Amend 6.4 Contractor’s Insurance of his Liability	Amend 6.4.1	Contractor’s Insurance of his Liability After “.... maintain insurance”, insert “with a reputable insurance company and shall ensure that any sub-contractor engaged for any purpose connected with the carrying out of the works takes out and maintains such insurance”
	Amend 6.4.1.2	After “.... arising out of one event”, insert “and the Contractor’s insurance policy effecting such cover shall have the interest of the Council endorsed thereon or shall otherwise expressly by its terms cover its benefits upon the Council”.
Amend 6.10 InsEvidence of Insurance	Amend 6.10.2	Evidence of Insurance After “incurs in taking out and maintaining that insurance”, insert “together with a reasonable administration charge (which charge shall not exceed 10% of the premiums)”.
SECTION 7:		BREAK PROVISION – RIGHTS OF EACH PARTY
Delete/Amend Existing	Insert / Replace Clause No	Insert (Heading and Clause)
Delete Clause 7.1 and 7.2	Add New 7.1	Delete the heading “Break Notice” and insert “No Fault Termination” Delete clause 7.1 and insert: the Council may terminate this Contract by giving the Contractor six months’ written notice, at any time and for any reason at the Council’s sole discretion, irrespective of any fault or otherwise of the Contractor.
SECTION 8:		TERMINATION FOR DEFAULT, ETC

SECTION 5:		MEASUREMENT AND VALUATION
Delete/Amend Existing	Insert / Replace Clause No	Insert (Heading and Clause)
Delete/Amend Existing	Insert / Replace Clause No	Insert (Heading and Clause)
Delete Section 8 Termination and replace with	Add new 8.1	Termination Subject to any incidence of Force Majeure, the Council may terminate the Contract in whole or in part with immediate effect by notice in writing to the Contractor on or at any time if:
	Add new 8.1.1	the Contractor becomes Insolvent; or
	Add new 8.1.2	the Contractor is convicted of a criminal offence; or
	Add new 8.1.3	the Contractor ceases or threatens to cease to carry on its business; or
	Add new 8.1.4	the Contractor has a change in control without the prior written consent of the Council which the Council believes will have a substantial impact on the performance of the Contract; or
	Add new 8.1.5	there is a risk or a genuine belief that reputational damage to the Council will occur as a result of the Contract continuing; or
	Add new 8.1.6	the Contractor is in breach of any of its obligations under this Contract that is capable of remedy and which has not been remedied to the satisfaction of the Council within 14 days, or such other reasonable period as may be specified by the Council after issue of a written notice specifying the breach and requesting it to be remedied; or
	Add new 8.1.7	there is a material or substantial breach by the Contractor of any of its obligations under this Contract which is incapable of remedy; or
	Add new 8.1.8	the Contractor commits persistent minor breaches of this Contract whether remedied or not; or
	Add new 8.1.9	the Contractor, being an individual, dies or has a administrator, guardian or receiver is appointed under the Mental Health Act 1983; or
	Add new 8.1.10	a relevant UK or other European Court declares that the Contract is
	Add new 8.1.11	ineffective ("Declaration of Ineffectiveness").
Add New 8.2	Add new 8.2	Where this Contract is subject to Orders as specified in the Contract Particulars the Council has the right to terminate any individual Order or Orders or the whole Contract under the provisions of this clause D1.
Renumber old 8.2 onwards		

SECTION 9:		SETTLEMENT OF DISPUTES
Delete/Amend Existing	Insert / Replace Clause No	Insert (Heading and Clause)
Delete Section 9	Add New 9.1	Dispute Resolution Procedure If a dispute arises between the Council and the Contractor in connection with the Contract, the parties shall each use reasonable endeavours to resolve such dispute by means of prompt discussion at an appropriate managerial level.
	Add New 9.2	If a dispute is not resolved within fourteen (14) days of referral under clause 9.1 then either party may refer it to the Chief Executive of the Council or appropriate nominated officer of each party for resolution who shall meet for discussion within 14 days or longer period as the parties may agree.
	Add New 9.3	Provided that both parties consent, a dispute not resolved in accordance with clauses 9.1 and 9.2, shall next be referred at the request of either party to a mediator appointed by agreement between the parties within 14 days of one party requesting mediation with the costs of mediation determined by the mediator.
	Add New 9.4	Nothing in this clause shall preclude either party from applying at any time to the English courts for such interim or conservatory measures as may be considered appropriate.

NEW SECTIONS

SECTION 10 (NEW):		SECURITY OF VOIDS
Add / Delete / Amend Existing	Insert / Replace Clause No	Insert (Heading and Clause)
New Section 10	Add New 10.1	The Contractor shall keep fully secure any vacant property whilst in his possession and shall take all necessary and reasonable precautions to protect the property against any unauthorised access or squatting. The Contractor shall indemnify the Council against any loss, damage, expense, liability or proceedings whatsoever, howsoever arising out of or caused by any breach by him of this clause.
	Add New 10.2	Should the property become squatted whilst in the possession of the Contractor, the Council will undertake the legal process to evict the squatters. Without prejudice to any other right or remedy which it may possess (including the aforesaid indemnity), breach of this clause 10 by the Contractor will entitle the Council to deduct as liquidated damages from payments due to the Contractor its loss of rent for up to 20 weeks together with its reasonable legal costs.

SECTION 11 (NEW):		CORRUPTION, INFORMATION AND AUDITING
Delete/Amend Existing	Insert / Replace Clause No	Insert (Heading and Clause)
New Section 11	Add New 11.1	<p>The Contractor warrants and represents to and undertakes with the Council, on the execution of the Contract and throughout the Contract Period, that it will:-</p> <p>(i) carry out work in a good, safe and competent manner and free from dishonesty and corruption and in a manner which shall promote and enhance the image and reputation of the Council;</p> <p>(ii) implement such systems as shall be necessary to eliminate, so far as practicable, and protect the Council from fraud, corruption, error and mistake by the Contractor or its staff. The Contractor shall notify the Council immediately if fraud, corruption or substantial errors are suspected. The Contractor shall permit the Council to audit such systems and shall provide the Council with all necessary access and facilities for that purpose; and</p> <p>(iii) take all reasonable steps to ensure the Council's interests are protected at all times, in particular by ensuring that all systems and procedures adopted by the Contractor for carrying out work under the Contract are in accordance with best practice.</p>
	Add New 11.2	The Contractor shall give the Council such information and access to and copies of documents as the Council may reasonably require to satisfy itself as to the Contractor's compliance with this Condition.
	Add New 11.3	<p>The Contractor shall at all times during the Contract Period and for a period of 12 years afterwards:-</p> <p>(i) keep secure and give to or make available for inspection by the Council or its Auditors, all original and copy records, documents, information, statements and papers which may be acquired or produced by the Contractor or any permitted subcontractor in the performance of the work under the Contract. In default of compliance, the Council may recover possession of such materials, and the Contractor licences the Council or its appointed agents to enter for these purposes any premises of the Contractor or its permitted subcontractors where any such materials may be held;</p>
		<p>(ii) make such explanations to the Council or its Auditors as may be necessary for them to be satisfied that the terms and conditions of the Contract, the Council's Standing Orders and financial regulations and the statutory provisions relating to the Contract are being complied with.</p> <p>(iii) fully co-operate with any enquiry or investigation (whether routine or specific) which in any way concerns, affects or relates to the Works, or any sum claimed or charged in relation to the Contract.</p>

APPENDIX 1
SPECIFICATIONS

1. Preliminaries



06.
Preliminaries.docx

2. M & W External Works Specification



10 M&W External
Specification.docx

3. M & W Internal Works Specification



09 M&W Internal
Specification.docx

4. Bathroom Works Specification



11.2 Bathroom
Specific Requiremen

5. Kitchen Works Specification



11.1 Kitchen
Specific Requiremen

6. Performance specification for Heating



11.3 Performance
Specification for He:

7. External Wall Insulation Specification



11.6 External Wall
Insulation Specificat

8. Asbestos Remedial Works



11.5 Asbestos
Remedial Works.doc

9. Performance Specification for Replacement Windows and Doors



11.4 Performance
Specification for Wiri

10. Moores Kitchen Brief



Appendix 10 -
Moores Kitchens Bri

Thurrock Council
Released under FOI